

Prob 12B

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**PETITION TO MODIFY THE CONDITIONS OR TERM OF SUPERVISION
WITH CONSENT OF THE OFFENDER**

(Probation Form 49, Waiver of Hearing, is on file)

Offender Name: **GEORGE THOMAS FELIX**

Docket Number: 1:00CR05211-01 AWI

Offender Address: Fresno, California

Judicial Officer: Honorable Anthony W. Ishii
Chief United States District Judge
Fresno, California

Original Sentence Date: February 20, 2001

Original Offense: 21 USC 841(a)(1) and 18 USC 2, Possession With Intent to
Distribute Cocaine Base and Aiding and Abetting
(CLASS A FELONY)

Original Sentence: 94 months BOP; 60 months supervised release; \$100 special
assessment; mandatory drug testing.

Special Conditions: 1) Search; 2) Financial disclosure; 3) Drug/alcohol treatment;
4) Drug/alcohol testing; 5) Pager/cellular phone restriction; 6)
Aftercare co-payment; 7) Drug registration.

Type of Supervision: Supervised Release

Supervision Commenced: April 17, 2007

Chief Assistant U.S. Attorney: Mark E. Cullers **Telephone:** (559) 497-4000

Defense Attorney: Eric G. Green **Telephone:** (559) 237-2042

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Other Court Action:

February 1, 2008:

Per Probation Form 12A1, the Court was advised that on December 31, 2007, the offender submitted a urine sample which revealed the use of marijuana. The offender's drug testing schedule was increased and he was referred to weekly group drug counseling sessions. The Court approved the probation officer's plan and ordered that no further action be taken.

PETITIONING THE COURT

To modify the conditions of supervision as follows:

1. The offender shall reside at the Residential Re-Entry Center-Turning Point for a period up to 120 days; said placement shall commence at the direction of the probation officer, pursuant to 18 USC 3563(b)(11). The defendant shall pay the cost of confinement as determined by the Bureau of Prisons. Furthermore, the offender shall not discharge from the program unless given permission from the director of the program or the United States Probation Officer.
2. As directed by the probation officer, the defendant shall participate in a program of mental health treatment (inpatient or outpatient).
3. The defendant shall abstain from the use of alcoholic beverages and shall not frequent those places where alcohol is the chief item of sale.

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NON-COMPLIANCE SUMMARY

1. ILLICIT DRUG USE - Marijuana
(February 10, 2009)

Details of alleged non-compliance: On February 10, 2009, the offender submitted a random urine sample which revealed the use of THC metabolite (marijuana). This is a violation of the mandatory condition that he not use any controlled substances.

2. NEW LAW VIOLATION

Details of alleged non-compliance: On February 20, 2009, in Fresno, California, the offender operated a motor vehicle while under the influence of alcohol, in violation of California law, as well as a general condition of supervision, to wit: *"The defendant shall not commit another federal, state, or local crime."*

Justification: The above-referenced violations represent the second occasion in which the Court is being advised of non-compliance behavior exhibited by the offender. Upon being confronted regarding the positive urine sample, the offender advised that approximately three weeks prior to submitting the positive test, he smoked "one to two hits" of marijuana off a marijuana joint while intoxicated. The probation officer proceeded to sternly admonish the offender for his non-compliance and placed him on a random drug testing schedule, wherein he is now subject to four random urine samples per month. In addition, he was referred to the Turning Point aftercare office in Fresno where he has been directed to participate in group drug counseling sessions on a weekly basis.

Approximately three days after implementing the above-referenced action, the offender advised that he incurred an arrest for driving under the influence of alcohol. He admitted that he had consumed "several shots of vodka and tequila" at a friend's house earlier that evening. California Highway Patrol officers conducted a traffic stop on the vehicle he was driving and determined that he was

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under the influence of alcohol. The offender was subsequently arrested and transported to the Fresno County Jail where he was booked into custody. In addition, his vehicle was impounded. He was released from custody on his own recognizance several hours later on that same date.

It appears that the Fresno County District Attorney's Office has not yet filed a Misdemeanor Criminal Compliant pertaining to the above arrest. However, a review of arrest documents reveal that on May 13, 2009, the offender is scheduled to appear in Fresno County Superior Court for arraignment on the matter. It is noted that the probation officer will advise the Court of the disposition in this matter once the case is resolved.

The offender clearly appears to be "spiraling out of control" and his re-occurring lifestyle involving substance abuse, as well as his recent alcohol abuse, must be addressed. While he obviously requires additional structure in his life, the probation officer is reluctant in recommending that the offender's term of supervised release be revoked at this time. Moreover, it is respectfully recommended that he be afforded the opportunity to redeem himself and exhibit positive progress on supervision. A significant factor considered in this decision is the fact that the offender has shown that he is capable of complying with his conditions of supervision, as his last violation conduct occurred approximately one year prior.

With the exception of his recent drug use and new law violation, the offender has displayed a great deal of compliance in other facets of his term of supervision. Specifically, he reports to the probation officer as directed and all home contacts have been void of any negative issues. In addition, he has maintained full-time employment in a local electrical union for the past several years. Furthermore, the offender has maintained compliance with his drug registration, he has submitted to DNA collection as required, and he has satisfied all Court-ordered financial obligations.

Although the offender has maintained compliance with several of his conditions of supervision, he acknowledges that his life requires additional structure at this time. As such, he has agreed that a placement at the Residential Re-Entry Center (RRC), Turning Point, for a period of up to 120 days appears appropriate at this time. Such placement will provide the offender with a more confined

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environment and will hopefully encourage him to make greater efforts towards leading an alcohol and drug-free lifestyle. Such placement will also afford the offender the opportunity to maintain employment, as well as continue to participate in substance abuse treatment. It is noted that the offender will continue to be subject to random drug testing while at the RRC.

In addition to recommending that a placement at the RRC be ordered, it is also recommended that a special condition for mental health treatment be imposed. Specifically, the offender has expressed his desire to participate in mental health treatment to appropriately address the stressors in his life, as well as assist in coping with unresolved issues which he believes may have contributed to his recent non-compliance. It is further recommended that based on the offender's recent arrest for driving under the influence of alcohol, the Court impose a special condition of supervision prohibiting the offender from the use of alcoholic beverages.

The offender has acknowledged his willingness to modify his conditions by signing a Waiver of Hearing to Modify Conditions of Supervised Release, which is attached for the Court's review.

Respectfully submitted,

/s/ Brian J. Bedrosian

BRIAN J. BEDROSIAN
United States Probation Officer
Telephone: (559) 499-5721

DATED: February 25, 2009
Fresno, California
BB

REVIEWED BY: /s/ Hubert J. Alvarez
HUBERT J. ALVAREZ
Supervising United States Probation Officer

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THE COURT ORDERS:

- (**X**) Modification approved as recommended.
- () Modification not approved at this time. Probation Officer to contact Court.
- () Other:

cc: United States Probation
Mark E. Cullers, Chief Assistant United States Attorney
Eric G. Green, Defense Attorney
Defendant
Court File

Attachment: Probation Form 49

ORDER

IT IS SO ORDERED.

Dated: March 2, 2009

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE